

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of the County of Santa Cruz for an order authorizing County to convert an existing at-grade crossing at Aptos Creek Road (CPUC No. 017B-12.65-X, SCR-1103, Federal DOT No. 768265B) from a private crossing to a public crossing and to construct roadway improvements, a traffic signal with railroad pre-emption, and railroad crossing gates at the tracks of Santa Cruz and Monterey Bay Railway (MP 12.65) in the County of Santa Cruz, State of California.

Application 14-04-009  
(Filed April 4, 2014)

**DECISION AUTHORIZING THE COUNTY OF SANTA CRUZ TO MODIFY AND CONVERT AN EXISTING PRIVATE AT-GRADE HIGHWAY-RAIL CROSSING TO A PUBLIC AT-GRADE HIGHWAY-RAIL CROSSING OVER THE TRACKS OF THE SANTA CRUZ AND MONTEREY BAY RAILWAY IN AN UNINCORPORATED AREA OF COUNTY OF SANTA CRUZ**

**Summary**

This decision grants the County of Santa Cruz authorization to modify and convert the existing private at-grade Aptos Creek Road highway-rail crossing to a public at-grade highway-rail crossing over the Santa Cruz and Monterey Bay Railway tracks in an unincorporated area of Santa Cruz County. The existing crossing is identified as California Public Utilities Commission Crossing Number 017B-12.65-X, and United States Department of Transportation Number 768265B.

This proceeding is closed.

## **Discussion**

The County of Santa Cruz (County) proposes to modify and convert the existing private Aptos Creek Road at-grade highway-rail crossing, to a public at-grade highway-rail crossing (crossing), over the Santa Cruz and Monterey Bay Railway (SCX) tracks. The existing crossing is a publicly used private crossing with two California Public Utilities Commission (Commission/CPUC) Standard 1-X "PRIVATE CROSSING" signs and two California Manual on Uniform Traffic Control Devices (CA MUTCD) standard R1-1 "STOP" signs. The crossing is adjacent to the Aptos Creek Road and Soquel Drive T-intersection which is "STOP" sign controlled on Aptos Creek Road and provides access to residences, parks, and a shopping plaza. Modification of the crossing is part of the Aptos Village Project, which will provide a new commercial zone north of the SCX tracks.

The County originally filed Application (A.) 11-10-010 to modify and convert the crossing from private to public. The rail owner at the time, Union Pacific Railroad (UPRR), and the rail operator, Sierra Northern Railway, protested A.11-10-010. Subsequently, the County requested to withdraw A.11-10-010, which the Commission dismissed without prejudice with Decision 12-06-018. UPRR sold the rail line to the Santa Cruz County Regional Transportation Commission (SCCRTC) with SCX having operating rights on the rail line. SCCRTC and SCX support this application and imply that all previous issues, which were the subject of protest, have been resolved.

The County will construct at the crossing several roadway and crossing safety improvements to provide safe pedestrian and bicycle traffic and facilitate safer access between the new commercial development and Soquel Drive, the main roadway to the Aptos Village Project.

The County will include the following features in the construction of the crossing:

- Precast concrete panel crossing surface;
- Left turn pocket for southbound Aptos Creek Road;
- Bicycle paths on both crossing approaches;
- New curb and gutter;
- Enhanced signing and pavement markings in compliance with the CA MUTCD;
- Americans with Disabilities Act (ADA) compliant detectable warning tactile stripes and sidewalks at each pedestrian approach to the track;
- Two curb mounted Commission Standard 9 (flashing light signal assemblies with automatic gates) warning devices with additional pair of flashing lights aimed for traffic along east and westbound Soquel Drive approaches;
- Two interconnected R3-1 (Active) “NO RIGHT TURN” train activated blank out signs pointed for westbound Soquel Drive;
- Signalized intersection of Aptos Creek Road and Soquel Drive with a pre-signal and providing railroad preemption for southbound motorists;
- Crosswalks with ADA compliant curb ramps and sidewalk landings at the Aptos Creek Road and Soquel Drive intersection; and
- Closing the pedestrian pathway on the southeast quadrant of the Aptos Creek Road crossing with a pedestrian barricade along with standard R9-3a signage to prevent trespassing along westbound Soquel Drive.

The County will also install an additional loop detector interconnected with the Aptos Creek Road and Soquel Drive intersection on the westbound Soquel Drive approach. When activated, the loop detector will provide a green signal for westbound Soquel Drive motorists to reduce congestion on Soquel Drive and at the nearby proposed Parade Street and at the existing at-grade Trout Gulch Road crossings. The County separately requested authorization for the new Parade Street at-grade crossing in A.14-04-010.

### **Environmental Review and CEQA Compliance**

The California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources Code Section 21000, et seq.) applies to discretionary projects to be carried out or approved by public agencies. A basic purpose of CEQA is to inform governmental decision-makers and the public about potential, significant environmental effects of the proposed activities. Since the project is subject to CEQA and the Commission must issue a discretionary decision in order for the project to proceed (i.e., the Commission has the exclusive authority to approve the project pursuant to Section 1202 of the Public Utilities Code), the Commission must consider the environmental consequences of the project by acting as either a lead or responsible agency under CEQA.

The lead agency is either the public agency that carries out the project,<sup>1</sup> or the one with the greatest responsibility for supervising or approving the project

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<sup>1</sup> CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(a).

as a whole.<sup>2</sup> Here, the County is the lead agency for this project, and the Commission is a responsible agency because it has jurisdiction to issue a permit for the project. As a responsible agency under CEQA, the Commission must consider the lead agency's environmental documents and findings before acting on or approving this project.<sup>3</sup> Also, as a responsible agency, the Commission is responsible for mitigating or avoiding only the direct or indirect environmental effects of those parts of the project which it decides to carry out, finance, or approve.<sup>4</sup>

The project to modify the Aptos Creek Road crossing is part of the larger Aptos Village Project. On November 16, 2009, the County issued an Environmental Review Initial Study (EIS) for the Aptos Village Project. On November 13, 2011, the County adopted a Mitigated Negative Declaration (MND) for the project. The County filed the Notice of Determination (NOD) on October 1, 2012, with the State Office of Planning and Research, determining that the project will not have a significant effect on the environment. Mitigation measures were made a condition for the project.

Impacts identified under CEQA relating to the rail-crossing aspect of the overall project are within the scope of the Commission's jurisdiction. The EIS

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<sup>2</sup> CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(b).

<sup>3</sup> CEQA Guidelines, Sections 15050(b) and 15096.

<sup>4</sup> CEQA Guideline Section 15096(g).

found that there would be no impact or a less than significant impact from the project, except for Transportation/Traffic, where the EIS found a less than significant impact with mitigation incorporation. The EIS required mitigation measures for intersections with an existing Level of Service of E or F. The Aptos Creek Road crossing adjacent to the Aptos Creek Road and Soquel Drive intersection study showed it had a PM Level of Service of E, which required mitigation measures. Mitigation measures include the installation of traffic signals, adding a dedicated left turn lane for southbound Aptos Creek Road, and working with the SCX to address safety concerns.

The Commission finds the proposed mitigation measures feasible and reasonable. The Commission reviewed and considered the County's EIS, MND, and NOD as they relate to the at-grade crossing and finds them adequate for our decision-making purposes.

### **Filing Requirements and Staff Recommendation**

The application is in compliance with the Commission's filing requirements, including Rule 3.7 of the Rules of Practice and Procedure, which relates to the construction of a public highway across a railroad.

The Commission's Safety and Enforcement Division – Rail Crossings Engineering Branch has inspected the site of the crossing, reviewed and analyzed the plans submitted with the application, and recommends that the requested authority to modify the subject crossing be granted for a period of three years.

### **Categorization and Need for Hearings**

In Resolution ALJ 176-3334, dated April 10, 2014, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. There is no apparent reason why the application should not be granted. Given

these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

### **Waiver of Comment Period**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

### **Assignment of Proceeding**

Denise Tyrrell is the assigned Examiner in this proceeding.

### **Findings of Fact**

1. Notice of the application was published in the Commission's Daily Calendar on April 8, 2014.
2. The County requests authority, under Public Utilities Code Sections 1201-1205, to modify and convert the private Aptos Creek Road at-grade, highway-rail crossing over the SCX tracks into a public at-grade, highway-rail crossing in the unincorporated area of Santa Cruz County. The crossing will be identified as CPUC Crossing No. 017B-12.65, U.S. DOT No. 768265B.
3. The County is the lead agency for this project under CEQA, as amended.
4. The County prepared an EIS, titled *Aptos Village Project*, dated November 16, 2009, for this project. The EIS determined the Aptos Creek Road and Soquel Drive intersection operates at an existing PM Level of Service of E.
5. The County adopted the MND for the project on November 13, 2011.
6. On October 1, 2012, the County filed the NOD.
7. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's EIS, MND, and NOD.
8. Mitigation measures were made a condition of approval for the project.

9. Regarding transportation/traffic impacts, mitigation measures include installation of traffic signals at the Aptos Creek Road and Soquel Drive intersection, adding a dedicated left turn lane for southbound Aptos Creek Road, and working with the railroad to address safety concerns at the Aptos Creek Road highway-rail crossing.

### **Conclusions of Law**

1. Safety, traffic, noise and other impacts related to the highway-rail crossing are areas within the scope of the Commission's permitting process.

2. The project will not have a potential significant effect on the environment.

3. The Commission finds the mitigation measures adopted in the EIS reasonable and feasible.

4. The EIS, MND, and NOD reflect the Commission's independent judgment and analysis.

5. The EIS, MND, and NOD are adequate for our decision-making purposes.

6. The EIS, MND, and NOD were completed in compliance with CEQA.

7. The application is uncontested and a public hearing is not necessary.

8. The application should be granted as set forth in the following Order.

### **O R D E R**

#### **IT IS ORDERED** that:

1. The County of Santa Cruz is authorized to modify and convert the private Aptos Creek Road at-grade highway-rail crossing into public at-grade highway-rail crossing, over the Santa Cruz and Monterey Bay Railway tracks at milepost 12.56, in the unincorporated area of Santa Cruz County.

2. The new Aptos Creek Road at-grade public crossing shall have the crossing treatments and configuration described in this decision and specified in



the application and its attachments. The new public Aptos Creek Road at-grade highway-rail crossing shall be identified as California Public Utilities Commission Crossing Number 017B-12.65, and United States Department of Transportation Number 768265B.

3. The County of Santa Cruz shall comply with all applicable rules, including California Public Utilities Commission General Orders, the United States Department of Transportation's Americans with Disabilities Act Standards for Transportation Facilities and the California Manual on Uniform Traffic Control Devices.

4. Santa Cruz and Monterey Bay Railway shall ensure that Emergency Notification Signs are installed to comply with Title 49, Code of Federal Regulation Section 234.309.

5. The County of Santa Cruz shall notify the California Public Utilities Commission's Safety Enforcement Division – Rail Crossings Engineering Branch at least five business days prior to opening of the crossing for public use. Notification should be made to [rceb@cpuc.ca.gov](mailto:rceb@cpuc.ca.gov).

6. Within 30 days after completion of the work under this order, the County of Santa Cruz shall notify the California Public Utilities Commission's Safety and Enforcement Division – Rail Crossings Engineering Branch in writing, by submitting a completed California Public Utilities Commission Standard Form G (*Report of Changes at Highway Grade Crossings and Separations*), of the completion of the authorized work. Form G requirements and forms can be obtained at the California Public Utilities Commission web site Form G page at <http://www.cpuc.ca.gov/PUC/safety/Rail/Crossings/formg.htm>. This report may be submitted electronically to [rceb@cpuc.ca.gov](mailto:rceb@cpuc.ca.gov).

7. Within 30 days after completion of the work under this order, the Santa Cruz and Monterey Bay Railway shall notify the Federal Railroad Administration of the existence of the crossings by submitting a United States Department of Transportation CROSSING INVENTORY FORM, form FRA F6180.71. A copy shall be provided concurrently to the California Public Utilities Commission's Safety and Enforcement Division – Rail Crossings Engineering Branch. This copy of the form may be submitted electronically to [rceb@cpuc.ca.gov](mailto:rceb@cpuc.ca.gov).

8. This authorization shall expire if not exercised within three years, unless time is extended or if the above conditions are not satisfied. The California Public Utilities Commission may revoke or modify this authorization if public convenience, necessity, or safety so requires.

9. A request for extension of the three-year authorization period must be submitted to the California Public Utilities Commission's Safety and Enforcement Division – Rail Crossings Engineering Branch at least 30 days before the expiration of that period. A copy of the request must be sent to all interested parties.

10. The application is granted as set forth above.

11. Application 14-04-009 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.